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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,832	11/13/2001	Cyrus O. Varan		6139

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EXAMINER

LUBY, MATTHEW D

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 01/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,832

Applicant(s)

VARAN, CYRUS O.

Examiner

Matt Luby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 3, 4 and 6-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 3, 4 and 6-9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.
2. Applicant's election without traverse of Species I, Figure 1 (claims 1, 2 and 5) in Paper No. 5 is acknowledged.

Oath/Declaration

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

4. Applicant has not given a post office address anywhere in the application papers as required by 37 CFR 1.33(a), which was in effect at the time of filing of the oath or declaration. A statement over applicant's signature providing a complete post office address is required. (It is noted that the paragraph titled "1" of the Applicant's declaration only lists Applicant's residence.)

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Drawings

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 60, 68 and 70 (Figure 3), 212 (Figure 5). A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities:

the phrase "a drive or pedal or drive wheel gear 156" (page 2, line 11) is believed to be grammatically incorrect and the intended phrase is believed to be "a pedal or drive wheel gear 156" (as this is consistent with the terminology used to refer to reference numeral "156" on page 7).

Appropriate correction is required.

Claim Objections

7. Claims 1 and 2 are objected to because of the following informalities:

It is believed that the limitation "drive wheel" (claim 1, lines 8 and 10 and claim 2, lines 2 and 5-6) was misspelled by mistake and should be changed to "driven wheel" since this is consistent with the terminology used regarding the driven wheel (164) in

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reference to Figure 1 in Applicant's specification (it is noted that no "drive wheel" was disclosed with reference to Figure 1);

It is believed that an "a" should be added before "drive train structure" (claim 1, line 9); and

It is believed that the "," after "a one-way clutch" (claim 2, line 3) should be replaced with the word "and".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 2 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is vague and indefinite because it is unclear if the claimed limitation "a pedal crank drive wheel gear" (line 3) is intended to be claimed as part of the "at least one driven wheel gear" (line 2). It is noted (as pointed out in the above claim objection) that no "and" was used between the claimed "a one-way clutch" and "a pedal crank drive wheel gear". If the claimed limitation "a pedal crank drive wheel gear" is not intended to be claimed as part of the "at least one drive wheel gear" (but rather is intended to be claimed as part of the pedal crank assembly), it is suggested that Applicant used language to differentiate the two such as by replacing the limitation "a

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pedal crank drive wheel gear" with "the pedal crank assembly further comprising a pedal crank drive wheel gear".

Claim 2 is further vague and indefinite because the term "said drive wheel gear" (lines 5-6) lacks proper antecedent basis. It is unclear whether this gear is supposed to refer to the "driven wheel gear" (claim 2, line 2) or the "pedal crank drive wheel gear" (claim 2, line 3). It is believed that Applicant meant to put an "n" at the end of the word "drive" and thereby refer back to the "driven wheel gear" of line 2, as noted in the above claim objections.

Claim 5 is vague and indefinite because the term "a drive chain" (line 2) lacks proper antecedent basis. The claim is confusing since claim 2 already recites "a closed loop drive chain" (line 4) and it is unclear if the "drive chain" in claim 2 and claim 5 are one and the same. If these drive chains are intended to be claimed as the same limitation it is suggested that Applicant amend "a drive chain" in line 2 of claim 5 to "wherein the drive chain is".

Claim 5 is further vague and indefinite because the language "a drive chain...mounted on said driven wheel gear" (lines 2-4) is confusing. It is unclear why Applicant has included this language if it has already been claimed that the "drive chain" is "meshed with said driven wheel gear" (lines 2-3). The indefiniteness stems from the confusion of how the chain being mounted on the driven wheel gear is any different from the chain being meshed with the driven wheel gear.

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Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 2 and 5 (2 and 5 as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Toronto et al. (5,918,894).

Toronto et al. disclose a vehicle including a bicycle frame (see 12 and 14 in Figures 1B, 2B, 3B for use with the propulsion assembly shown in Figure 10) and for pedal propulsion (by 202 and 203, shown in Figure 10), the vehicle including a pedal crank assembly (202 and 203) journaled from the frame about a transverse axis (the axis of 205 shown in Figure 10), a seat mounted from the frame appreciably above and rearward of the axis of rotation of the pedal crank assembly such that a person seated on the seat in a substantially upright position may operatively engage and drive the pedal crank (the seat would inherently be at the top of 12 in Figures 1B, 2B and 3B, but is not shown, and would be above and rearward of the axis of rotation of 205 and the person seated would inherently engage the pedal crank assembly with his or her feet), the vehicle including a drive wheel (255) journaled therefrom (shown in Figure 10) including at least one driven wheel gear (218) equipped with a one-way clutch (222, see discussion of the freewheeling clutch 222 in lines 8-22 of column 10), a pedal crank drive wheel gear (205), a drive train structure (200) including a closed loop drive chain (211) drivingly connecting the pedal crank assembly (202 and 203) to and meshed

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with/mounted on the driven wheel gear (218) for rotation of the drive wheel in a direction opposite to rotation of the pedal crank assembly (if the pedal crank assembly is rotated in the reverse direction, i.e., counterclockwise, as explained in line 61, column 9 to line 30, column 11, then the sprocket 218 is rotated clockwise and the reverse pedal drive sprocket is rotated clockwise, which rotates chain 251, thereby rotating rear wheel 255 forward through the sprocket 254 on rear axle 256) and at least one auxiliary wheel (224) journaled from the frame (this is inherently shown in Figure 10), wherein the drive chain is engaged with the auxiliary wheel (see Figure 10).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited patents to Toronto et al., Foster, Jr. and Chung-Suk all disclose pedal crank assemblies that can be rotated in the reverse direction to propel the bicycle in the forward direction.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Luby whose telephone number is (703) 305-0441.

The examiner can normally be reached on Monday-Friday, 9:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Matt Luby
Examiner
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A handwritten signature in cursive script that reads "Matt Luby".

M.L.
January 6, 2003